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ELIAS MORALES

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

ELIAS MORALES, as an individual and on
behalf of all others similarly situated,

Plaintiff,

vs.

JB I INTERIORS, LLC., a Delaware limited
liability company; and DOES 1 through 100,
inclusive,

Defendants.

Case No.: 21STCV43284

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT:**

- (1) **FAILURE TO PAY ALL MINIMUM
WAGES OWED (LABOR CODE §§
1194, 1194.2, 1197);**
- (2) **FAILURE TO PAY ALL OVERTIME
WAGES OWED (LABOR CODE §§
204, 510, 558, 1194, 1198);**
- (3) **FAILURE TO PROVIDE MEAL
PERIODS (LABOR CODE §§ 226.7,
512, 558);**
- (4) **FAILURE TO AUTHORIZE AND
PERMIT REST PERIODS (LABOR
CODE §§ 226.7, 516);**
- (5) **FAILURE TO PROVIDE
ACCURATE, ITEMIZED WAGE
STATEMENTS (LABOR CODE § 226
et seq.);**
- (6) **FAILURE TO TIMELY PAY ALL
WAGES UPON TERMINATION
(LABOR CODE §§ 201-203);**

FILED
Superior Court of California
County of Los Angeles
04/22/2022

Sherri R. Carter, Executive Officer / Clerk of Court
By: C. Gomez Deputy

1 (7) UNFAIR COMPETITION (BUS &
2 PROF CODE § 17200 *et seq.*); and

3 (8) CIVIL PENALTIES UNDER THE
4 LABOR CODE PRIVATE
5 ATTORNEYS GENERAL ACTION
6 OF 2004 (LABOR CODE § 2698 *et*
7 *seq.*)

8 DEMAND FOR JURY TRIAL
9 UNLIMITED CIVIL CASE
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1 Plaintiff Elias Morales (“Plaintiff”), on behalf of himself and all others similarly situated,
2 hereby brings this First Amended Class and Representative Action Complaint (“FAC”) against
3 JBI Interiors, LLC, a Delaware limited liability company, and DOES 1 to 100, inclusive
4 (collectively “Defendants”), and on information and belief alleges as follows:

5 **JURISDICTION**

6 1. Plaintiff, on behalf of himself and all others similarly situated, hereby brings this
7 FAC for recovery of unpaid wages and penalties under California Business and Professions Code
8 § 17200 *et. seq.*, Labor Code §§ 201-203, Labor Code §§ 204, 218 *et seq.*, 226 *et seq.*, 226.7, 510,
9 512, 516, 558, 1194, 1194.2, 1197, 1198, and Industrial Welfare Commission Wage Order 1 (the
10 “Wage Order 1”), in addition to seeking declaratory relief and restitution. This FAC is brought
11 pursuant to California Code of Civil Procedure § 382. This Court has jurisdiction over
12 Defendants’ violations of the California Labor Code because the amount in controversy exceeds
13 this Court's jurisdictional minimum.

14 **VENUE**

15 2. Venue is proper in this judicial district pursuant to Cal. Code of Civ. Proc. §§
16 395(a) and 395.5, as at least some of the acts and omissions complained of herein occurred in the
17 County of Los Angeles. Defendants own, maintain offices, transact business, have agent(s) within
18 the County of Los Angeles, and/or otherwise are found within the County of Los Angeles, and
19 Defendants are within the jurisdiction of this Court for purposes of service of process.

20 **PARTIES**

21 3. Plaintiff is an individual over the age of eighteen (18). At all relevant times herein,
22 Plaintiff was a California resident. During the four years immediately preceding the filing of the
23 lawsuit in this action and within the statute of limitations periods applicable to each cause of
24 action pled herein, Plaintiff was employed by Defendants as a non-exempt employee. Plaintiff
25 was, and is, a victim of Defendants’ policies and/or practices complained of herein, lost money
26 and/or property, and has been deprived of the rights guaranteed by Labor Code §§ 201-203, 204,
27 218.5, 218.6, 226 *et seq.*, 226.7, 510, 512, 516, 558, 1194, 1194.2, 1197, 1198, and California
28 Business and Professions Code § 17200 *et seq.* (“Unfair Competition Law” or “UCL”); and Wage

Order 1, which sets employment standards for the occupations in the manufacturing, which includes the industry in which Plaintiff worked for Defendants.

4. Plaintiff is informed and believes, and based thereon alleges, that during the four years preceding the filing of the lawsuit and continuing to the present, Defendants did (and continue to do) business by manufacturing furniture for the restaurant industry. Defendants employed Plaintiff and other, similarly-situated non-exempt employees within Los Angeles County and the state of California and, therefore, were (and are) doing business in Los Angeles County and the State of California.

5. Plaintiff does not know the true names or capacities, whether individual, partner, or corporate, of the defendants sued herein as DOES 1 to 100, inclusive, and for that reason, said defendants are sued under such fictitious names, and Plaintiff will seek leave from this Court to amend this FAC when such true names and capacities are discovered. Plaintiff is informed, and believes, and based thereon alleges, that each of said fictitious defendants, whether individual, partners, or corporate, were responsible in some manner for the acts and omissions alleged herein, and proximately caused Plaintiff and the Classes (as defined in Paragraph 20) to be subject to the unlawful employment practices, wrongs, injuries and damages complained of herein.

6. Plaintiff is informed, and believes, and thereon alleges, that at all times mentioned herein, Defendants were and are the employers of Plaintiff and all members of the Classes.

7. At all times herein mentioned, each of said Defendants participated in the doing of the acts hereinafter alleged to have been done by the named Defendants; and furthermore, the Defendants, and each of them, were the agents, servants, and employees of each and every one of the other Defendants, as well as the agents of all Defendants, and at all times herein mentioned were acting within the course and scope of said agency and employment. Defendants, and each of them, approved of, condoned, and/or otherwise ratified each and every one of the acts or omissions complained of herein.

8. At all times mentioned herein, Defendants, and each of them, were members of and engaged in a joint venture, partnership, and common enterprise, and acting within the course and scope of and in pursuance of said joint venture, partnership, and common enterprise. Further,

1 Plaintiff alleges that all Defendants were joint employers for all purposes of Plaintiff and all
2 members of the Classes.

3 **GENERAL FACTUAL ALLEGATIONS**

4 9. Plaintiff, a former non-exempt employee, was employed by Defendants from
5 approximately June 6, 2018 through on or about January 11, 2021. During his employment,
6 Plaintiff worked as a Painter at Defendants' location in Long Beach, California.

7 10. During his employment with Defendants, Plaintiff was generally scheduled to
8 work from 5:00 a.m. to 10:00 p.m. or 11:00 p.m., Monday through Friday. Also, from
9 approximately 2018 through 2019, he was also often scheduled to work on Saturdays.

10 11. Prior to the COVID-19 pandemic, Defendants required Plaintiff and all other non-
11 exempt employees to clock in and out by using a hand scanner that would keep track of and record
12 his work time. In connection with the COVID-19 pandemic, during the most recent portion of
13 Plaintiff's employment with Defendants, Defendants took away all the hand scanner clocks and
14 the supervisor would write down the time worked by Plaintiff and the other non-exempt
15 employees.

16 12. During his employment with Defendants, Defendants' timekeeping policies and/or
17 practices would unlawfully shave and/or round the time worked by Plaintiff and other non-exempt
18 employees such that Plaintiff and the other non-exempt employees would not be fully paid for all
19 time worked. Specifically, Plaintiff would often arrive and begin working 15 to 30 minutes prior
20 to his scheduled start time. However, Defendants would not pay Plaintiff for this time and would
21 not begin compensating Plaintiff until his scheduled start time. This time-shaving and/or
22 rounding practice utilized by Defendants was not even-handed over time and would almost
23 exclusively round and shave in Defendants' favor such that Plaintiff and other non-exempt
24 employees were routinely not paid for all time worked. As a result, Defendants failed to pay
25 Plaintiff and other non-exempt employees all required minimum and overtime wages.

26 13. Throughout Plaintiff's employment with Defendants, Plaintiff and other non-
27 exempt employees were not provided all required meal periods due to Defendants' meal period
28 policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to

1 the start of the fifth hour of work. Specifically, Defendants had a policy/practice of notifying
2 Plaintiff and other non-exempt employees of the time to take a meal period by ringing a bell to
3 signal the commencement of the meal period. The lunch bell would ring at 12:02 p.m. to alert
4 employees to the start of the meal period. Then a second bell would ring at 12:28 p.m., to alert
5 Plaintiff to return back to his work station, which he was required to be at by 12:30 p.m.. As such,
6 Defendants provided short or otherwise unlawful meal periods to Plaintiff and their non-exempt
7 employees because they would be required to cut their 30 minutes short in order to be back at
8 their works stations ready to commence work. Additionally, Defendants required Plaintiff and
9 some other non-exempt employees to carry walkie talkie radios at all times, even during his meal
10 periods. As a result, Plaintiff was on-call during his meal periods, and often interrupted and
11 unable to have duty-free meal periods in violation of California law.

12 14. Further, Defendants did not require Plaintiff and the other non-exempt employees
13 to clock in and out for their meal periods. Therefore, despite Defendants' failure to keep any
14 records of Plaintiff's meal periods, Plaintiff is informed and believes that Defendants unlawfully
15 automatically deducted thirty minutes from Plaintiff's work time each shift for a purported meal
16 period regardless of whether or not a meal period was taken and regardless of whether the meal
17 period, if taken, was less than 30 minutes in length. As a result, Defendants failed to pay Plaintiff
18 and other non-exempt employees all of their minimum and overtime wages owed.

19 15. Additionally, Plaintiff and non-exempt employees often worked in excess of 10.0
20 hours in a shift, yet Defendants failed to provide Plaintiff and the other non-exempt employees
21 with the opportunity to take a second meal period as required by applicable law.

22 16. Although Plaintiff was not provided with all legally-compliant meal periods to
23 which he was entitled, Defendants failed to compensate Plaintiff with the required meal period
24 premium for each workday in which he experienced a meal period violation as mandated by Labor
25 Code § 226.7. Upon information and belief during at least a portion of the class period,
26 Defendants maintained no payroll code or other mechanism for the payment of meal period
27 premium payments under Labor Code § 226.7 in the event that a legally compliant meal period
28 was not provided to Plaintiff and their non-exempt employees.

1 17. Plaintiff was also not authorized and permitted to take all legally required and
2 compliant rest periods due to Defendants' unlawful rest period policies and practices.
3 Specifically, Defendants had a policy and practice of only providing one 15-minute rest period
4 during each shift, irrespective of the shift length. Thus, Defendants did not authorize and permit
5 Plaintiff to take a 2nd rest period when working in excess of 6.0 hours, nor did they authorize and
6 permit Plaintiff to take a 3rd rest period if he worked a shift in excess of 10.0 hours. This practice
7 resulted in the failure by Defendants to authorize and permit legally compliant rest periods to
8 Plaintiff and other non-exempt employees.

9 18. On those occasions when Plaintiff was not authorized and permitted to take all
10 legally-compliant rest periods to which he was entitled, Defendants failed to compensate Plaintiff
11 with the required rest period premium for each workday in which he experienced a rest period
12 violation as mandated by Labor Code § 226.7. Further, upon information and belief during at
13 least a portion of the class period, Defendants maintained no payroll code or other mechanism for
14 the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally
15 compliant rest period was not provided to their non-exempt employees.

16 19. As a result of Defendants' failure to pay all minimum wages, overtime wages, as
17 well as meal period premium wages and rest period premium wages, Defendants maintained
18 inaccurate payroll records and issued inaccurate wage statements to Plaintiff and other employees.
19 Additionally, Defendants failed to comply with Labor Code section 226(a)(8) and (e) by
20 furnishing wage statements that failed to include the name of the legal entity that is/was the
21 employer. Specifically, Defendant issued wage statements to its employees with "JBI LLC" as
22 the employer's name on them, which is not its legal name. This caused confusion and damages
23 to employees who received such incorrect and unlawful wage statements.

24 20. As a further result of Defendants' failure to pay all minimum and overtime wages
25 and meal and rest period premium wages, Defendants failed to pay all final wages owed to
26 Plaintiff and other non-exempt employees upon their termination of employment with
27 Defendants.

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1 **CLASS ACTION ALLEGATIONS**

2 21. **Class Definitions:** Plaintiff brings this action on behalf of himself and the
3 following Classes pursuant to § 382 of the Code of Civil Procedure:

- 4 a. The Minimum Wage Class: consists of all of Defendants' current and former non-
5 exempt employees in California who were subject to Defendants' timekeeping
6 policies/practices, during the four years preceding the filing of the lawsuit through
7 the present.
- 8 b. The Overtime Class: consists of all of Defendants' current and former non-exempt
9 employees in California who worked more than eight hours per day and/or forty
10 hours per week and subject to Defendants' timekeeping policies/practices, during
11 the four years immediately preceding the filing of this lawsuit through the present
12 date.
- 13 c. The Meal Period Class consists of all of Defendants' current and former non-
14 exempt employees who: (i) worked at least one shift in excess of 5.0 hours, during
15 the four years immediately preceding the filing of the lawsuit through the present.
- 16 d. The Rest Period Class consists of all of Defendants' current and former non-
17 exempt employees in California who worked at least one shift in excess of 6.0 or
18 more hours during the four years immediately preceding the filing of the lawsuit
19 through the present.
- 20 e. The Wage Statement Class consists of all current and former employees (exempt
21 and non-exempt) who received at least one wage statement from Defendants
22 during the one year immediately preceding the filing of the lawsuit through the
23 present.
- 24 f. The Waiting Time Penalty Class consists of Defendants' formerly employed
25 members of the Minimum Wage Class, Overtime Class, Meal Period Class and/or
26 Rest Period Class in California, during the three years immediately preceding the
27 filing of the lawsuit through the present.
28

g. The UCL Class consists of members of the: (i) Minimum Wage Class; (ii) Overtime Class; (iii) Meal Period Class; (iv) Rest Period Class; (v) Wage Statement Class; and (vi) Waiting Time Penalty Class.

22. Plaintiff reserves the right under Rule 3.765(b) of the California Rules of Court, to amend or modify the description of the various classes with greater specificity or further division into subclasses or limitation to particular issues.

23. **Numerosity/Ascertainability:** The members of the Classes are so numerous that joinder of all members would be unfeasible and not practicable. The membership of the Classes is unknown to Plaintiff at this time; however, it is estimated that the members of the Classes number greater than sixty (60) individuals. The identity of such membership is readily ascertainable via inspection of Defendants' employment records.

24. **Common Questions of Law and Fact Predominate/Well Defined Community of Interest:** There are common questions of law and fact as to Plaintiff and all other similarly situated employees, which predominate over questions affecting only individual members. Those common questions include, without limitation:

- i. Whether Defendants' timekeeping policies and/or practices resulted in the failure to properly compensate members of the Overtime and Minimum Wage Classes for all hours actually worked;
- ii. Whether Defendants violated the applicable Labor Code provisions including, but not limited to §§ 510 and 1194 by requiring overtime work and not paying for said work according to the overtime laws of the State of California;
- iii. Whether Defendants provided all legally compliant meal periods to members of the Meal Period Class pursuant to Labor Code §§ 226.7 and 512;
- iv. Whether Defendants authorized and permitted all legally compliant rest periods to members of the Rest Period Class pursuant to Labor Code §§ 226.7 and 516;
- v. Whether Defendants furnished legally compliant wage statements to members of the Wage Statement Class pursuant to Labor Code § 226;
- vi. Whether Defendants' policies and/or practices for the timing and amount of

1 payment of final wages to members of the Waiting Time Class at the time of their
2 separation of employment were lawful; and

- 3 vii. Whether Defendants engaged in unlawful, unfair, illegal, and/or deceptive
4 business practices by and through the wage and hour policies and practices
5 described above, and whether as a result Defendants owe the classes restitution.

6 25. **Predominance of Common Questions:** Common questions of law and fact
7 predominate over questions that affect only individual members of the Classes. The common
8 questions of law set forth above are numerous and substantial and stem from Defendants' policies
9 and/or practices applicable to each individual class member, such as Defendants' uniform
10 timekeeping, minimum wage payment, overtime wage payment, and meal and rest period policies
11 and practices. As such, the common questions predominate over individual questions concerning
12 each individual class member's showing as to their eligibility for recovery or as to the amount of
13 their damages.

14 26. **Typicality:** The claims of Plaintiff are typical of the claims of the Classes because
15 Plaintiff was employed by Defendants as a non-exempt employee in California during the
16 statute(s) of limitations period applicable to each cause of action pled in the FAC. As alleged
17 herein, Plaintiff, like the members of the Classes, was not provided all legally required minimum
18 and overtime wages, was not provided with all required meal periods, was not authorized and
19 permitted to take all required rest periods, did not receive meal and rest period premium wages
20 when he was not provided compliant meal and rest periods, was not provided with accurate,
21 itemized wage statements, and was not paid all wages due at the time of termination.

22 27. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps
23 to represent fairly and adequately the interests of the members of the Classes. Moreover,
24 Plaintiff's attorneys are ready, willing and able to fully and adequately represent the members of
25 the Classes and Plaintiff. Plaintiff's attorneys have prosecuted and defended numerous wage-
26 and-hour class actions in state and federal courts in the past and are committed to vigorously
27 prosecuting this action on behalf of the members of the Classes.

28 28. **Superiority:** The California Labor Code is broadly remedial in nature and serves

an important public interest in establishing minimum working conditions and standards in California. These laws and labor standards protect the average working employee from exploitation by employers who have the responsibility to follow the laws and who may seek to take advantage of superior economic and bargaining power in setting onerous terms and conditions of employment. The nature of this action and the format of laws available to Plaintiff and members of the Classes make the class action format a particularly efficient and appropriate procedure to redress the violations alleged herein. If each employee were required to file an individual lawsuit, Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and overwhelm the limited resources of each individual plaintiff with their vastly superior financial and legal resources. Moreover, requiring each member of the Classes to pursue an individual remedy would also discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former and/or current employer for real and justifiable fear of retaliation and permanent damages to their careers at subsequent employment. Further, the prosecution of separate actions by the individual class members, even if possible, would create a substantial risk of inconsistent or varying verdicts or adjudications with respect to the individual class members against Defendants herein; and which would establish potentially incompatible standards of conduct for Defendants; and/or legal determinations with respect to individual class members which would, as a practical matter, be dispositive of the interest of the other class members not parties to adjudications or which would substantially impair or impede the ability of the class members to protect their interests. Further, the claims of the individual members of the Classes are not sufficiently large to warrant vigorous individual prosecution considering all of the concomitant costs and expenses attending thereto. As such, the Classes identified in Paragraph 20 are maintainable as a Class under § 382 of the Code of Civil Procedure.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL MINIMUM WAGES OWED

(AGAINST ALL DEFENDANTS)

29. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

1 30. This cause of action is brought pursuant to Labor Code §§ 204, 558, 1194, 1197
2 and 1198 which provide that all non-exempt employees are entitled to all minimum wages for all
3 hours worked, and provide a private right of action for the failure to pay all minimum wage
4 compensation for all work performed.

5 31. At all times relevant herein, Defendants were required to properly compensate
6 Plaintiff and the members of the Minimum Wage Class for all hours worked pursuant to
7 California Labor Code §§ 1194, 1197 and 1198, and the Wage Order 1. The Wage Order 1,
8 Section 4 requires an employer to pay to every employee on the established payday for the period
9 involved not less than the applicable minimum wage for all hours worked in the payroll period.
10 Defendants caused Plaintiff and the members of the Minimum Wage Class to work hours in a
11 workweek but did not properly compensate Plaintiff and the members of the Minimum Wage
12 Class at least minimum wages for such hours.

13 32. At all times relevant herein, Defendants lacked good faith and had no reasonable
14 grounds for believing that their practices in failing to pay all minimum wages owed at the
15 applicable rate was not a violation of any provision of the Labor Code relating to minimum wage,
16 or an order of the Industrial Welfare Commission. Defendants therefore, in addition to owing
17 minimum wages to Plaintiff and the members of the Minimum Wage Class, also owe liquidated
18 damages in an amount equal to the wages unlawfully unpaid, and interest thereon, pursuant to
19 Labor Code § 1194.2.

20 33. The foregoing practices and policies are unlawful and create entitlement to
21 recovery by Plaintiff and the members of the Minimum Wage Class in a civil action for the unpaid
22 amount of minimum wages owing, including interest thereon, as well as statutory penalties,
23 liquidated damages, civil penalties, and attorneys' fees and costs of suit, pursuant to Labor Code
24 §§ 204, 218.5, 218.6, 558, 1194, 1194.2, 1197, 1197.1 and 1198, the Wage Order 1, California
25 Code of Civil Procedure § 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code
26 §§ 3287(b) and 3289.

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1 **SECOND CAUSE OF ACTION**

2 **FAILURE TO PAY ALL OVERTIME WAGES OWED**

3 **(AGAINST ALL DEFENDANTS)**

4 34. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 35. This cause of action is brought pursuant to Labor Code §§ 204, 510, 558, 1194
6 and 1198 which provide that all non-exempt employees are entitled to all overtime wages for all
7 overtime worked (hours in excess of 8 in one day and/or 40 in one week), and provide a private
8 right of action for the failure to pay all overtime compensation for overtime work performed.

9 36. At all times relevant herein, Defendants were required to properly compensate
10 Plaintiff and the members of the Overtime Class for all overtime hours worked pursuant to
11 California Labor Code §§ 510 and 1194, and the Wage Order 1. Labor Code § 510 and the Wage
12 Order 1, Section 3 require an employer to pay an employee “one and one-half (1½) times the
13 regular rate of pay” for work in excess of 8 hours per workday and/or in excess of 40 hours per
14 workweek. Labor Code § 510 and the Wage Order 1, Section 3 also require an employer to pay
15 an employee double the employee’s regular rate for work in excess of 12 hours each workday
16 and/or in excess of 8 hours on the seventh consecutive day of work in the workweek. Defendants
17 caused Plaintiff and the members of the Overtime Class to work in excess of 8 hours in a workday
18 and/or 40 hours in a workweek but did not properly compensate Plaintiff and the members of the
19 Overtime Class at one and one-half their regular rate of pay for such hours. Plaintiff is further
20 informed and believes that Defendants failed to incorporate all non-discretionary Incentive Pay
21 into the regular rate of pay of members of the Overtime Class, resulting in members of the
22 Overtime Class being underpaid for overtime hours worked.

23 37. The foregoing practices and policies are unlawful and create entitlement to
24 recovery by Plaintiff and the members of the Overtime Class in a civil action for the unpaid
25 amount of overtime premium owing, including interest thereon, as well as statutory penalties,
26 civil penalties, and attorneys’ fees and costs of suit, pursuant to Labor Code §§ 204, 210, 216,
27 218.5, 218.6, 510, 558, 1194 and 1198, the Wage Order 1, California Code of Civil Procedure §
28 1021.5 California Code of Civil Procedure § 1021.5, and Civil Code §§ 3287(b) and 3289.

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 **(AGAINST ALL DEFENDANTS)**

4 38. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 39. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 failed in their affirmative obligation to provide all of their non-exempt employees in California,
7 including Plaintiff and members of the Meal Period Class, with all legally compliant meal periods
8 in accordance with the mandates of the California Labor Code and the Wage Order 1, § 11.
9 Despite Defendants' violations, Defendants did not pay an additional hour of pay to Plaintiff and
10 members of the Meal Period Class at their respective regular rates of pay, in accordance with
11 California Labor Code §§ 204, 210, 226.7, and 512.

12 40. As a result, Defendants are responsible for paying premium compensation for meal
13 period violations pursuant to Labor Code §§ 226.7, 512, and 558, and the Wage Order 1, including
14 interest thereon, statutory penalties, civil penalties, and costs of suit.

15 **FOURTH CAUSE OF ACTION**

16 **FAILURE TO AUTHORIZE AND PERMIT REST PERIODS**

17 **(AGAINST ALL DEFENDANTS)**

18 41. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

19 42. The Wage Order 1, § 12 and California Labor Code §§ 226.7, 516 and 558
20 establish the right of employees to be authorized and permitted to take a paid rest period of at
21 least ten (10) minutes net rest time for each four (4) hour period worked, or *major fraction thereof*.

22 43. As alleged herein, Defendants failed to authorize and permit Plaintiff and members
23 of the Rest Period Class to take all required rest periods.

24 44. The foregoing violations create an entitlement to recovery by Plaintiff and
25 members of the Rest Period Class in a civil action for the unpaid amount of rest period premiums
26 owing, including interest thereon, statutory penalties, civil penalties, and costs of suit according
27 to California Labor Code §§ 226.7, 516, 558, and Civil Code §§ 3287(b) and 3289.

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1 **FIFTH CAUSE OF ACTION**

2 **FAILURE TO PROVIDE ACCURATE, ITEMIZED WAGE STATEMENTS**

3 **(AGAINST ALL DEFENDANTS)**

4 45. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

5 46. Plaintiff is informed and believes, and based thereon alleges, that Defendants
6 knowingly and intentionally, as a matter of uniform policy and practice, failed to furnish Plaintiff
7 and members of the Wage Statement Class with complete and accurate wage statements with
8 respect to their rates of pay, hours worked at each rate of pay, total gross wages earned, and total
9 net wages earned in violation of Labor Code § 226 *et seq.*

10 47. Defendants' failures in furnishing Plaintiff and members of the Wage Statement
11 Class with complete and accurate itemized wage statements resulted in actual injury, as said
12 failures led to, among other things, the non-payment of all earned overtime and/or minimum
13 wages as well as meal and rest period premium wages, and deprived them of the information
14 necessary to identify the discrepancies in Defendants' reported data.

15 48. Defendants' failures create an entitlement to recovery by Plaintiff and members of
16 the Wage Statement Class in a civil action for all damages and/or penalties pursuant to Labor
17 Code § 226 *et seq.*, including statutory penalties, civil penalties, reasonable attorneys' fees, and
18 costs of suit according to California Labor Code § 226 *et seq.*

19 **SIXTH CAUSE OF ACTION**

20 **FAILURE TO PAY ALL WAGES UPON TERMINATION**

21 **(AGAINST ALL DEFENDANTS)**

22 49. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

23 50. This cause of action is brought pursuant to Labor Code §§ 201-203, which require
24 an employer to pay all wages immediately at the time of separation of employment in the event
25 the employer discharges the employee or the employee provides at least 72 hours of notice of
26 their intent to quit. In the event the employee provides less than 72 hours of notice of their intent
27 to quit, said employee's wages become due and payable not later than 72 hours upon said
28 employee's last date of employment.

1 51. Plaintiff is informed and believes, and based thereon alleges, that Defendants
2 failed to timely pay Plaintiff and members of the Waiting Time Penalty Class all final wages due
3 to them at their separation from employment, including, meal and rest period premium wages.

4 52. Further, Plaintiff is informed and believes, and based thereon alleges, that as a
5 matter of uniform policy and practice, Defendants continue to fail to pay Plaintiff and members
6 of the Waiting Time Penalty Class all earned wages at the end of employment in a timely manner
7 pursuant to the requirements of Labor Code §§ 201-203.

8 53. Defendants' failure to pay all final wages was willful within the meaning of Labor
9 Code § 203. Defendants' willful failure to timely pay Plaintiff and the members of the Waiting
10 Time Penalty Class their earned wages upon separation from employment results in a continued
11 payment of wages up to thirty days from the time the wages were due.

12 54. Therefore, Plaintiff and members of the Waiting Time Penalty Class are entitled
13 to compensation pursuant to Labor Code § 203, plus reasonable attorneys' fees and costs of suit.

14 **SEVENTH CAUSE OF ACTION**

15 **UNFAIR COMPETITION**

16 **(AGAINST ALL DEFENDANTS)**

17 55. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

18 56. Defendants have engaged and continue to engage in unfair and/or unlawful
19 business practices in California in violation of California Business and Professions Code § 17200
20 *et seq.*, by failing to properly pay all minimum and overtime wages, provide all required meal
21 periods and authorize and permit all required rest periods, or pay premium payments in lieu
22 thereof.

23 57. Defendants' utilization of these unfair and/or unlawful business practices deprived
24 Plaintiff and continues to deprive members of the Classes of compensation to which they are
25 legally entitled, constitutes unfair and/or unlawful competition, and provides an unfair advantage
26 over Defendants' competitors who have been and/or are currently employing workers and
27 attempting to do so in honest compliance with applicable wage and hour laws.

28 58. Because Plaintiff is a victim of Defendants' unfair and/or unlawful conduct alleged

herein, Plaintiff for himself and on behalf of the members of the Classes, seeks full restitution of monies, as necessary and according to proof, to restore any and all monies withheld, acquired and/or converted by Defendants pursuant to Business and Professions Code §§ 17203 and 17208.

59. The acts complained of herein occurred within the last four years immediately preceding the filing of the lawsuit in this action.

60. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and those of the Classes, to obtain restitution and injunctive relief on behalf of Defendants' current non-exempt employees, and to enforce important rights affecting the public interest. Plaintiff has thereby incurred the financial burden of attorneys' fees and costs, which he is entitled to recover under Code of Civil Procedure § 1021.5.

EIGHTH CAUSE OF ACTION

LABOR CODE PRIVATE ATTORNEYS GENERAL ACT OF 2004

(AGAINST ALL DEFENDANTS)

61. Plaintiff re-alleges and incorporates by reference all previous paragraphs.

62. Defendants have committed several Labor Code violations against Plaintiff and other aggrieved employees. Plaintiff, an "aggrieved employee" within the meaning of Labor Code § 2698 *et seq.*, acting on behalf of himself and other aggrieved employees, brings this representative action against Defendants to recover the civil penalties due to Plaintiff, the other aggrieved employees, and the State of California according to proof pursuant to Labor Code § 558 and § 2699 (a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the following Labor Code violations:

- 1 a) Defendants violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to
2 pay Plaintiff and other aggrieved employees all overtime compensation earned;
- 3 b) Defendants violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay
4 Plaintiff and other aggrieved employees the statutory minimum wage for all
5 hours worked;
- 6 c) Defendants violated Labor Code §§ 226.7, 512, and 558 by failing to provide all
7 legally required meal periods and failing to pay meal period premiums to
8 Plaintiff and other aggrieved employees;
- 9 d) Defendants violated Labor Code §§ 226.7, 516, and 558 by failing to provide all
10 legally required rest periods and failing to pay rest period premiums to Plaintiff
11 and other aggrieved employees;
- 12 e) Defendants violated Labor Code §§ 201, 202 and 203 by failing to timely pay
13 all final wages due to Plaintiff and other aggrieved employees;
- 14 f) Defendants violated Labor Code § 226 by failing to furnish Plaintiff and other
15 aggrieved employees with accurate and compliant itemized wage statements;
- 16 g) Defendants violated Labor Code § 204 by failing to pay Plaintiff and other
17 aggrieved employees all earned wages at least twice during each calendar month;
18 and
- 19 h) Defendants violated Labor Code § 1174 by failing to maintain accurate records
20 on behalf of Plaintiff and other aggrieved employees.

21 63. On November 24, 2021, Plaintiff notified Defendants via certified mail, and the
22 California Labor and Workforce Development Agency (“LWDA”) via e-mail, of Defendants’
23 violations of the California Labor Code and Plaintiff’s intent to bring a claim for civil penalties
24 under California Labor Code § 2698 et seq. with respect to violations of the California Labor Code
25 identified in Paragraph 62 (a)-(h). Attached hereto as **Exhibit A** is a true and correct copy of the
26 November 24, 2021 correspondence. Now that sixty-five days have passed from Plaintiff notifying
27 Defendants of these violations, Plaintiff has exhausted his administrative requirements for bringing
28 a claim under the Labor Code Private Attorneys General Act with respect to these violations.

64. Plaintiff was compelled to retain the services of counsel to file this court action to protect his interests and the interests of other aggrieved employees, and to assess and collect the civil penalties owed by Defendants. Plaintiff has thereby incurred attorneys' fees and costs, which he is entitled to receive under California Labor Code § 2699.

PRAYER

WHEREFORE, Plaintiff prays for judgment for himself and for all others on whose behalf this suit is brought against Defendants, as follows:

1. For an order certifying the proposed Classes;
2. For an order appointing Plaintiff as representative of the Classes;
3. For an order appointing Counsel for Plaintiff as Counsel for the Classes;
4. Upon the First Cause of Action, for payment of minimum wages, liquidated damages, and penalties according to proof pursuant to Labor Code §§ 1194, 1194.2 and 1197;
5. Upon the Second Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 204, 510, 558, 1194, and 1198;
6. Upon the Third Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 512, and 558;
7. Upon the Fourth Cause of Action, for compensatory, consequential, general and special damages according to proof pursuant to Labor Code §§ 226.7, 516, and 558;
8. Upon the Fifth Cause of Action, for statutory wage statement penalties pursuant to Labor Code § 226 *et seq.*;
9. Upon the Sixth Cause of Action, for statutory waiting time penalties pursuant to Labor Code § 203;
10. Upon the Seventh Cause of Action, for restitution to Plaintiff and members of the Class of all money and/or property unlawfully acquired by Defendants by means of any acts or practices declared by this Court to be in violation of Business and Professions Code § 17200 *et seq.*;
11. Upon the Eighth Cause of Action, for civil penalties due to Plaintiff, other aggrieved employees, and the State of California according to proof pursuant to Labor Code §§

558 and 2699(a) and (f) including, but not limited to: (1) \$100.00 for each initial violation for each failure to pay each employee and \$200.00 for each subsequent violation or willful or intentional violation pursuant to Labor Code § 210 for each failure to pay each employee, plus 25% of the amount unlawfully withheld; (2) \$250.00 for each initial violation and \$1,000.00 for each subsequent violation pursuant to Labor Code § 226.3 per employee per pay period; (3) \$50.00 for each initial violation and \$100.00 for each subsequent violation pursuant to Labor Code § 558 per employee per pay period; and/or (4) \$100.00 for each initial violation and \$200.00 for each subsequent violation per employee per pay period for those violations of the Labor Code for which no civil penalty is specifically provided, based on the Labor Code violations cited in Paragraph 62 (a)-(h) above;

12. Prejudgment interest on all due and unpaid wages pursuant to California Labor Code § 218.6 and Civil Code §§ 3287 and 3289;

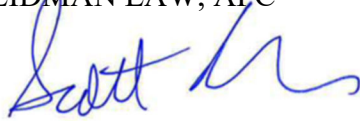
13. On all causes of action, for attorneys' fees and costs as provided by Labor Code § 218.5 and Code of Civil Procedure § 1021.5 and all other applicable statutes; and

14. For such other and further relief the Court may deem just and proper.

Dated: April 22, 2022

Respectfully submitted,
LIDMAN LAW, APC

By:



Scott M. Lidman
Attorneys for Plaintiff
ELIAS MORALES

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial with respect to all issues triable by jury.

Dated: April 22, 2022

Respectfully submitted,
LIDMAN LAW, APC

By:



Scott M. Lidman
Attorneys for Plaintiff
ELIAS MORALES

EXHIBIT A

EXHIBIT A

LIDMAN LAW

2155 CAMPUS DRIVE, SUITE 150, EL SEGUNDO, CA 90245

OFFICE: (424) 322-4772

FAX: (424) 322-4775

November 24, 2021

VIA LWDA WEBSITE

Labor and Workforce Development Agency

Attn: PAGA Administrator

1515 Clay Street, Suite 801

Oakland, CA 94612

VIA U.S. CERTIFIED MAIL – RETURN RECEIPT REQUESTED

JB Interiors, LLC

c/o Michael Buchbinder, Agent for Service of Process

2650 El Presidio Street

Long Beach, CA 90810

Re: *Elias Morales v. JB Interiors, LLC*

To Whom It May Concern:

Please be advised that this law firm represents Elias Morales in claims arising from his employment with JB Interiors, LLC, a California limited liability company (“Defendant”). Mr. Morales is an “aggrieved employee” as defined by Labor Code sections 2699, *et seq.* due to Defendant’s numerous violations of the Labor Code as set forth below. The purpose of this letter is to comply with Labor Code section 2699.3, which requires aggrieved employees to notify their employer and the Labor and Workforce Development Agency (“LWDA”) of the specific provisions of the Labor Code allegedly violated. For purposes of this letter, if the LWDA decides not to investigate, Mr. Morales intends to pursue a lawsuit on behalf of other “Aggrieved Employees”, which should be considered to include all current and former employees who worked as delivery drivers (and other similar job positions/titles) in California who worked, at least in part, during the one year immediately preceding the date of this letter through the date of trial, the date judgment is entered, the date of settlement and/or other date approved by the Court.

Mr. Morales, a former non-exempt employee, was employed by Defendant from approximately June 6, 2018 through on or about January 11, 2021. During his employment, Mr. Morales worked as a Painter at Defendant’s location in Long Beach, California.

During his employment with Defendant, Mr. Morales was generally scheduled to work from 5:00 a.m. to 10:00 p.m. or 11:00 p.m., Monday through Friday. Also, from approximately 2018 through 2019, he was also often scheduled to work on Saturdays.

Prior to the COVID-19 pandemic, Defendant required Mr. Morales and other Aggrieved Employees to clock in and out by using a hand scanner that would keep track

of and record his work time. In connection with the COVID-19 pandemic, during the most recent portion of Mr. Morales' employment with Defendant, Defendant took away all the hand scanner clocks and the supervisor would write down the time worked by Mr. Morales and the other Aggrieved Employees.

During his employment with Defendant, Defendant's timekeeping policies and/or practices would unlawfully shave and/or round the time worked by Mr. Morales and other Aggrieved Employees such that Mr. Morales and the other Aggrieved Employees would not be fully paid for all time worked. Specifically, Mr. Morales would often arrive and begin working 15 to 30 minutes prior to his scheduled start time. However, Defendant would not pay Mr. Morales for this time and would not begin compensating Mr. Morales until his scheduled start time. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant's favor such that Mr. Morales and other Aggrieved Employees were routinely not paid for all time worked. As a result, Defendant failed to pay Mr. Morales and other Aggrieved Employees all required minimum and overtime wages.

Throughout Mr. Morales' employment with Defendant, Mr. Morales and other Aggrieved Employees were not provided all required meal periods due to Defendant's meal period policies/practices which fail to provide uninterrupted, duty-free 30-minute meal periods prior to the start of the fifth hour of work. Specifically, Defendant had a policy/practice of notifying Mr. Morales and other Aggrieved Employees of the time to take a meal period by ringing a bell to signal the commencement of the meal period. The lunch bell would ring at 12:02 p.m. to alert employees to the start of the meal period. Then a second bell would ring at 12:28 p.m., to alert Mr. Morales to return back to his work station, which he was required to be at by 12:30 p.m.. As such, Defendant provided short or otherwise unlawful meal periods to Mr. Morales and their Aggrieved Employees because they would be required to cut their 30 minutes short in order to be back at their works stations ready to commence work. Additionally, Defendant required Mr. Morales and some other Aggrieved Employees to carry walkie talkie radios at all times, even during his meal periods. As a result, Mr. Morales was on-call during his meal periods, and often interrupted and unable to have duty-free meal periods in violation of California law.

Further, Defendant did not require Mr. Morales and the other Aggrieved Employees to clock in and out for their meal periods. Therefore, despite Defendant's failure to keep any records of Mr. Morales' meal periods, Mr. Morales is informed and believes that Defendant unlawfully automatically deducted thirty minutes from Mr. Morales' work time each shift for a purported meal period regardless of whether or not a meal period was taken and regardless of whether the meal period, if taken, was less than 30 minutes in length. As a result, Defendant failed to pay Mr. Morales and other Aggrieved Employees all of their minimum and overtime wages owed.

Additionally, Mr. Morales and Aggrieved Employees often worked in excess of 10.0 hours in a shift, yet Defendant failed to provide Mr. Morales and the other Aggrieved Employees with the opportunity to take a second meal period as required by applicable law.

Although Mr. Morales was not provided with all legally-compliant meal periods to which he was entitled, Defendant failed to compensate Mr. Morales with the required meal period premium for each workday in which he experienced a meal period violation as mandated by Labor Code § 226.7. Upon information and belief during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for the payment of meal period premium payments under Labor Code § 226.7 in the event that a legally compliant meal period was not provided to Mr. Morales and their Aggrieved Employees.

Mr. Morales was also not authorized and permitted to take all legally required and compliant rest periods due to Defendant's unlawful rest period policies and practices. Specifically, Defendant had a policy and practice of only providing one 15-minute rest period during each shift, irrespective of the shift length. Thus, Defendant did not authorize and permit Mr. Morales to take a 2nd rest period when working in excess of 6.0 hours, nor did they authorize and permit Mr. Morales to take a 3rd rest period if he worked a shift in excess of 10.0 hours. This practice resulted in the failure by Defendant to authorize and permit legally compliant rest periods to Mr. Morales and other Aggrieved Employees.

On those occasions when Mr. Morales was not authorized and permitted to take all legally-compliant rest periods to which he was entitled, Defendant failed to compensate Mr. Morales with the required rest period premium for each workday in which he experienced a rest period violation as mandated by Labor Code § 226.7. Further, upon information and belief during at least a portion of the class period, Defendant maintained no payroll code or other mechanism for the payment of rest period premium payments under Labor Code § 226.7 in the event that a legally compliant rest period was not provided to their Aggrieved Employees.

As a result of Defendant's failure to pay all minimum wages, overtime wages, as well as meal period premium wages and rest period premium wages, Defendant maintained inaccurate payroll records and issued inaccurate wage statements to Mr. Morales and other employees. Additionally, Defendant failed to comply with Labor Code section 226(a)(8) and (e) by furnishing wage statements that failed to include the name of the legal entity that is/was the employer. Specifically, Defendant issued wage statements to its employees with "JBI LLC" as the employer's name on them, which is not its legal name. This caused confusion and damages to employees who received such incorrect and unlawful wage statements.

As a further result of Defendant's failure to pay all minimum and overtime wages and meal and rest period premium wages, Defendant failed to pay all final wages owed to Mr. Morales and other Aggrieved Employees upon their termination of employment with Defendant.

As described above, Defendant committed the following violations of the Labor Code and Industrial Welfare Commission Wage Order No. 1 ("Wage Order 1"):

Overtime Violations

Defendant was required to pay Mr. Morales and other Aggrieved Employees overtime wages for all hours worked in excess of eight hours per workday and/or forty hours per workweek. *See* Labor Code §§ 1194(a) and 1198; the Wage Order 1, § 3. According to Labor Code § 510(a), “Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee.” This Section further provides, “Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated equal to one and one-half times their regular rate of pay for all overtime hours worked. As explained above, Defendant had a policy/practice of not keeping track of and compensating Mr. Morales and other Aggrieved Employees for all of their time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Morales and other Aggrieved Employees were routinely not paid for all time worked. As a result, Defendant failed to pay Mr. Morales and other Aggrieved Employees all required overtime wages.

Minimum Wage Violations

Defendant was required to pay Mr. Morales and other Aggrieved Employees an hourly rate at least equal to the minimum wage for each hour actually worked. *See* Labor Code §§ 1194; 1194.2, 1197; The Wage Order 1, § 4. Mr. Morales and other Aggrieved Employees were not paid for all hours worked due to Defendant’s timekeeping and compensation practices. As alleged above, Defendant caused Mr. Morales and other Aggrieved Employees to work hours in a workweek but did not properly compensate Mr. Morales and other Aggrieved Employees at least minimum wages for all such hours, due to Defendant’s unlawful timekeeping practices of rounding and/or shaving Mr. Morales’ time worked. As explained above, Defendant had a policy/practice of not keeping track of and compensating Mr. Morales and other Aggrieved Employees for all of their time worked. This time-shaving and/or rounding practice utilized by Defendant was not even-handed over time and would almost exclusively round and shave in Defendant’s favor such that Mr. Morales and other Aggrieved Employees were routinely not paid for all time worked. This practice by Defendant resulted in Defendant not paying Mr. Morales and other Aggrieved Employees for all wages owed for the work they performed, including failing to pay all required minimum wages.

Meal Period Violations

As alleged above, Defendant failed to provide Mr. Morales and other Aggrieved Employees with all required and compliant meal periods. *See* Labor Code §§ 226.7 and 512; Wage Order 1, § 11. Throughout Mr. Morales’ employment with Defendant, Mr. Morales and other Aggrieved Employees were not provided all required meal periods due to Defendant’s meal period policies/practices which fail to provide uninterrupted, duty-free

and timely 30-minute meal periods when employees work in excess of 5.0 hours in a day. Specifically, due to the job duties imposed on Mr. Morales and other Aggrieved Employees, they were often prevented from taking meal periods that commenced before the end of the 5th hour of work and/or which were at least 30 minutes in length. As a result, Mr. Morales and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday they experienced a meal period violation. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal or rest or recovery period in accordance with ... [an] order of the Industrial Welfare Commission ... the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest or recovery period is not provided.”). In addition, Defendant had a policy/practice of notifying Mr. Morales and other Aggrieved Employees of the time to take a meal period by ringing a bell to signal the commencement of the meal period. The lunch bell would ring at 12:02 p.m. to alert employees to the start of the meal period. Then a second bell would ring at 12:28 p.m., to alert Mr. Morales to return back to his work station, which he was required to be at by 12:30 p.m.. As such, Defendant provided short or otherwise unlawful meal periods to Mr. Morales and their Aggrieved Employees because they would be required to cut their 30 minutes short in order to be back at their works stations ready to commence work. Additionally, Defendant required Mr. Morales and some other Aggrieved Employees to carry walkie talkie radios at all times, even during meal periods. As a result, Mr. Morales was on-call during his meal periods, and often interrupted and unable to have duty-free meal periods in violation of California law. Additionally, Mr. Morales and Aggrieved Employees often worked in excess of 10.0 hours in a shift, yet Defendant failed to provide Mr. Morales and the other Aggrieved Employees with the opportunity to take a second meal period as required by applicable law. Although Mr. Morales and other Aggrieved Employees were not provided with all legally-compliant meal periods to which they were entitled, Defendant failed to compensate Mr. Morales and other Aggrieved Employees with the required meal period premium for each workday in which they experienced a meal period violation as mandated by Labor Code § 226.7.

Rest Period Violations

Defendant also failed to authorize and permit Mr. Morales and other Aggrieved Employees to take all required rest periods. *See* Labor Code §§ 226.7 and 516; Wage Order 1, § 12. As described above, Defendant had a policy and practice of only providing one 15-minute rest period during each shift, irrespective of the shift length. Thus, Defendant did not authorize and permit Mr. Morales to take a 2nd rest period when working in excess of 6.0 hours, nor did they authorize and permit Mr. Morales to take a 3rd rest period if he worked a shift in excess of 10.0 hours. As a result, Mr. Morales and other Aggrieved Employees are owed an additional hour of wages at their regular rate of compensation for each workday that they were not authorized and permitted to take all legally required rest periods. *See* Labor Code § 226.7 (“If an employer fails to provide an employee a meal period or rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one additional hour of pay at the employee’s regular rate of compensation for each workday that the meal or rest period is not provided.”)

Wage Statement Violations

Defendant knowingly and intentionally, as a matter of uniform practice and policy, failed to furnish Mr. Morales and other Aggrieved Employees with accurate and complete, itemized wage statements that included, among other requirements, all minimum and overtime wages earned, and total meal and rest period premium wages, in violation of Labor Code § 226 *et seq.* Additionally, Defendant failed to comply with Labor Code section 226(a)(8) and (e) by furnishing wage statements that failed to include the name of the legal entity that is/was the employer. Defendant's failure to furnish Mr. Morales and other Aggrieved Employees with complete and accurate, itemized wage statements resulted in actual injury, as said failures led to, among other things, the non-payment of all minimum and overtime wages earned, and meal and rest period premium wages, and deprived them of the information necessary to identify discrepancies in Defendant's reported data.

Waiting Time Penalties

Labor Code §§ 201 and 202 require that employees receive all of their final wages at the time of their separation of employment. Defendant failed to timely pay Mr. Morales and other Aggrieved Employees all of their final wages at the time of separation, which included, among other things, underpaid minimum and overtime wages, and meal and rest period premium wages. Pursuant to Labor Code § 203, Defendant's failure to pay all final wages due to Mr. Morales and other Aggrieved Employees was willful and, consequently, entitles Mr. Morales and other Aggrieved Employees to wages from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days.

As an "aggrieved employee," Mr. Morales will initiate a civil action on behalf of himself and other Aggrieved Employees to recover damages, statutory penalties, and civil penalties resulting from the wage and hour violations alleged herein. Based on Mr. Morales' own investigation, and on information and belief, Defendant committed the following Labor Code violations:

- a) Defendant violated Labor Code §§ 204, 510, 558, 1194, and 1198 by failing to pay Mr. Morales and other Aggrieved Employees all overtime compensation earned;
- b) Defendant violated Labor Code §§ 1194, 1194.2, and 1197 by failing to pay Mr. Morales and other Aggrieved Employees the statutory minimum wage for all hours worked;
- c) Defendant violated Labor Code §§ 226.7, 512, and 558 by failing to provide all legally required meal periods and failing to pay meal period premiums to Mr. Morales and other Aggrieved Employees;

- d) Defendant violated Labor Code §§ 226.7, 516, and 558 by failing to provide all legally required rest periods and failing to pay rest period premiums to Mr. Morales and other Aggrieved Employees;
- e) Defendant violated Labor Code §§ 201, 202 and 203 by failing to timely pay all final wages due to Mr. Morales and other Aggrieved Employees;
- f) Defendant violated Labor Code § 226 by failing to furnish Mr. Morales and other Aggrieved Employees with accurate and compliant itemized wage statements;
- g) Defendant violated Labor Code § 204 by failing to pay Mr. Morales and other Aggrieved Employees all earned wages at least twice during each calendar month; and
- h) Defendant violated Labor Code § 1174 by failing to maintain accurate records on behalf of Mr. Morales and other Aggrieved Employees.

Pursuant to Labor Code section 2699.3(a)(2)(A), please notify us and Defendant if the LWDA intends to investigate these alleged violations of the Labor Code. Please contact me should you require additional information.

Very truly yours,

LIDMAN LAW, APC



Scott M. Lidman

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 2155 Campus Drive, Suite 150, El Segundo, California 90245.

On April 22, 2022, I served the foregoing document(s) described as **FIRST AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested party(ies) in this action as follows:

Jeffrey H. Reeves (SBN 156648)
jreeves@tocounsel.com
Christopher J. Harney (SBN 322306)
charney@tocounsel.com
Jin Oh (SBN 328481)
joh@tocounsel.com

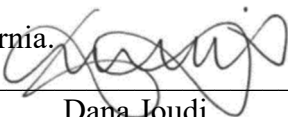
THEODORA ORINGHER PC
535 Anton Boulevard, Ninth Floor
Costa Mesa, California 92626
Tel: (714) 549-6200
Fax: (714) 549-6201

Attorneys for Defendant
JBI INTERIORS, LLC

☒ (BY ELECTRONIC SERVICE) I caused a true and correct copy of the document(s) described above to be electronically served on counsel of record at the electronic service addresses listed above by electronic transmission via Case Anywhere.

☒ (STATE) I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on April 22, 2022, at El Segundo, California.



Dana Joudi